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CONG. JACK FIELDS - 202-102200

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JACK FIELDS
9th DISTRICT TEXAS

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COMMITTEE ON
COMMERCE
SUBCOMMITTEE ON
TELECOMMUNICATIONS
AND FINANCE
CHAIRMAN**Congress of the United States**

House of Representatives • Washington, DC 20515-4308

October 17, 1996

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OCT 24 1996

Federal Communications Commission
Office of Secretary

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, NW -- Room 814
Washington, DC 20544

Dear Mr. Chairman:

Last February Congress passed, and President Clinton signed into law, the Telecommunications Act of 1996. It was a proud moment for Congress. It was a proud moment for President Clinton. It was a proud moment for Vice President Gore. It was a proud moment for all Americans. After years of debate and false starts, America was finally on the right course towards more competitive telecommunications markets that would provide American consumers with more choices, better quality service and lower prices.

The States and the Federal Communications Commission (FCC) were given the large and tedious responsibility of implementing the law. This has been an enormous opportunity to demonstrate leadership both on the part of the States and the FCC. Commissioners at both the State and federal level could follow the law exactly and give a legacy of competitive markets, lower prices and better service to all Americans. It would be an achievement of pride and honor, worthy of telling one's grandchildren.

Most if not all of the States appear to be complying with the law. For them, honor is a just reward. But recent statements by the Eighth Circuit Court of Appeals make it clear that the FCC is having some difficulty following the law. This is not a proud legacy for its Commissioners, and certainly not for its Chairman.

It is not too late for the Commission to correct its mistakes and follow the letter and the intent of the law. Both the letter and intent of the law make clear that States have enormous responsibility and discretion for implementing competition in local telephone markets, and this responsibility and discretion cannot be ignored and overruled by the FCC or any other entity.

I am also deeply disturbed by some of your recent statements claiming that distinctions between interstate and intrastate services are things of the "past." Surely, the Telecommunications Act of 1996, which specifically preserves that distinction, is not a thing of the past. Surely, the law of the land is not a thing of the past, nor something that an agency can merely reinvent.

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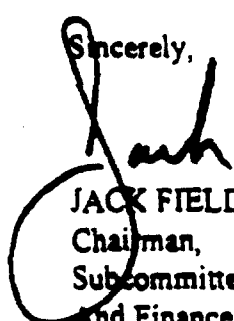
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It is better to be remembered as the Chairman who followed the law than the Chairman who flouted the law or reinvented the law. It is better to be remembered as the Chairman who succeeded honorably than the Chairman who failed with contempt. I trust that you will take all steps necessary to bring the FCC into compliance with the law. That is why I trust that you will be remembered as one of the greatest, if not the greatest, Chairman of the FCC: the Chairman who was able to correct all of the mistakes that the Commission has made in interpreting the law to date.

I look forward to hearing from you soon about your specific plans and schedule to make those corrections.

Sincerely,


JACK FIELDS,
Chairman,
Subcommittee on Telecommunications
And Finance

Reed -

As someone who directed the telecommunication reform in the House, I can say, without equivocation that you missed the "letter" and the "intent" of the Telecommunications Act of 1996 with your interconnecti

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JACK FIELDS
11th DISTRICT, TEXAS

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CHAIRMAN**Congress of the United States**

House of Representatives • Washington, DC 20515-4309

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OCT 24 1996

The Honorable Sharon L. Nelson, Chairperson
 Washington Utilities and Transportation Commission
 P.O. Box 47250
 Olympia, WA 98504-7250

Federal Communications Commission
 Office of Secretary

Dear Chairperson Nelson:

I am writing with respect to the Commission's implementation of Section 254 of the Telecommunications Act of 1995 relating to universal service. As you know, Congress gave the states, through their majority representation on the Federal-State Joint Board on Universal Service the primary responsibility in making recommendations with respect to services to be supported by federal universal service support mechanisms. Under the Act, the Commission is directed to implement the recommendations of the Joint Board. Because the Joint Board is scheduled to make its recommendations to the Commission shortly, I thought it might be helpful to clarify the law and Congress' intent with respect to implementation of this most important provision of the law.

With respect to the Joint Board's recommendations, the most clear and consistent reading of the law, consistent with Congressional intent, would be for the Joint Board to make only modest changes to current federal universal service programs. The law does not require that a federal universal service fund be funded at any specific level. A federal universal service fund can only be funded by carriers of interstate services; and consumers would ultimately pay for any federal universal service fund through higher user fees and taxes, and correspondingly higher rates. A federal universal service fund that taxes consumers of billions of dollars a year would not only be inconsistent with Congressional intent but it would harm consumers. First, it would harm universal service by raising average rates for all consumers and, second, it would harm competition which is the principal objective of the law.

Various well-intentioned groups have recommended that the Joint Board go beyond the letter of the law and endorse costly programs under federal universal service not intended by Congress. While many of these programs are proposed with the best of intentions, if mandated and funded under federal universal service, I believe

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they would lead to disastrous results.

The consistent principle of the Telecommunications Act of 1996 is that competition, rather than the heavy hand of government regulation and intervention, helps consumers. The Telecommunications Act was intended to promote competition and to lessen regulation, not to promote regulation and to lessen competition. Competition, not government-mandated cross-subsidies, leads to lower rates for all consumers. And competitive lower rates unencumbered by taxes and fees, not more regulations and central planning in Washington, form the surest and only way to ensure universal service.

I am concerned that some proponents of an exaggerated federal universal service fund have trumpeted the *affordability* language of the Act. According to the Act, affordability is only a goal that "should" be met; it is not a mandate or entitlement that "shall" be met. Moreover, there is no evidence that telephone rates in the United States are unaffordable. As you know, only a very small percentage of American households do not currently subscribe for telephone service.

I am also troubled by reports of a *national* affordability standard, a price threshold above which a carrier could not offer services. The term "affordability standard," much less "national affordability standard" appears nowhere in the Telecommunications Act. I can assure you that Congress never intended for consumers to pay additional taxes into a federal universal service fund to compensate carriers whose services cost more than the national affordability standard.

Nor can reason support a finding that "affordability" in the poor neighborhoods of Mississippi has the same characteristics as affordability in affluent suburbs of Connecticut or the law offices of Wall Street. A moderate-income family in Mississippi with a monthly telephone service rate of \$20 should not be forced to pay an additional universal service tax to help subsidize a moderate-income, or upper-income family in Connecticut with a monthly telephone service rate that would otherwise be \$25. Such a system is neither mandated, justified, nor consistent with the Telecommunications Act of 1996.

Another example of well-intentioned suggestions is that federal universal service must be used to wire the interiors of schools, hospitals, and libraries. The letter of the law is clear that the federal universal service fund can only support subsidies for *services*, not plant and equipment. Nor does that law imply that services must be provided for free. Rather, the law states that such institutions shall have access to

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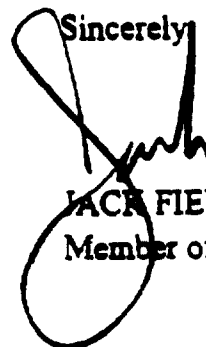
services at discounted rates. Again, the intent of Congress was not to force telephone consumers to pay taxes and fees to a federal telephone universal service to form a massive annual subsidy of billions of dollars. As you know, the conference agreement contained significant modifications in Section 254 designed specifically to prevent such an interpretation.

More importantly, schools, hospitals, and libraries across America are today being wired for advanced telecommunications services. This wiring is occurring not because of a federal universal service fund but as the result of private sector initiatives and programs sponsored by state and local government. The goals of the Telecommunications Act of 1996 in the area of access to advanced telecommunications services for schools, hospitals, and libraries are being met without federal intervention.

The choices facing the Joint Universal Service Board are stark and clear. The Board can harm consumers and the concept of universal service by raising prices nationwide by insisting on more federal regulations, more federal taxes, and more cross-subsidies; or the Board can help consumers and universal service by insisting on few if any federal regulations, no federal taxes, and no cross-subsidies. The Board can harm consumers and universal service by reducing incentives for competition and innovation in markets that will be distorted by regulations, cross-subsidies, and taxes; or the Board can help consumers and universal service by allowing competition and innovation to flourish in markets with minimal regulation, no cross-subsidies and no taxes. The Board can ignore both the letter and the intent of the law, or it can respect both the letter and the intent of the law.

We trust that the Joint Board will make the correct decision and follow both the letter and the intent of the law.

Sincerely,



JACK FIELDS
Member of Congress